Comment Letter O068

O068

TRANSPORTATION SOLUTIONS DEFENSE AND EDUCATION FUND

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August 31, 2004
By E-mail & Fax

Hon. Joseph E. Petrillo, Chairperson
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA95814

Re: Draft Program Environmental Impact Statement/Environmental Impact Report ("DPEIS/R") for the proposed California High Speed Rail System.

Dear Mr. Petrillo:

TRANSDEF is an environmental non-profit dedicated to the regional planning of transportation, air quality and land use for the San Francisco Bay Area. High Speed Rail System has the potential to yield tremendous benefits to our region if it is well-implemented. However, we are concerned that the design process has been badly corrupted, as evidenced by the DPEIS/R, and will result in a system that fails to yield transportation benefits commensurate with its massive costs.

TRANSDEF has spoken at several hearings on the DPEIS/R's unwise and illegal discarding of a project alternative so feasible that it had previously been selected as the Preferred Alternative by the HSR Commission. The Altamont Alignment has such obvious synergies with existing gaps in the Bay Area's transit network that a mere cursory examination is sufficient to determine that a detailed analysis as a route alternative is warranted.

It is clear to TRANSDEF that the ridership methodology used as the primary rationalization for discarding the Altamont Alternative was fundamentally flawed. The question asked by the EIR consultants should have been "How many riders will benefit by the construction of this public asset?" Instead, the analysis was limited to only the HSR riders. (Other flaws were pointed out as well in other comment letters adopted herein by reference.) Because the Altamont Alignment would provide a fine right-of-way for transit service within the Bay Area, and between the Bay Area and the Central Valley, a much higher total ridership will result from the Altamont Alignment than either the Diablo or Pacheco Alternatives–precisely because they lack these intraregional and interregional passengers. O068-1

TRANSDEF spent the summer in an effort to resolve this problem. As a result of winning a lawsuit against the Metropolitan Transportation Commission and the Bay Area Air Quality Management District, TRANSDEF has constructed a Smart Growth Alternative that will be modelled in the EIR for the Bay Area's 2005 Regional Transportation Plan. MTC's transportation modelling will provide ridership data for TRANSDEF's proposed HSR system (details available at http://mtcwatch.com/Transit%20Maps/Rapid%20Exports/HSRinfo.pdf). TRANSDEF requests that the MTC data be scaled to be compatible with HSRA service frequencies and added to the HSRA ridership data to provide the ridership grand totals needed to validly compare Altamont with other alignments. O068-1 cont.

Besides working on the RTP alternative, TRANSDEF has also been occupied trying to ensure that the HSRA project has a San Francisco terminus at the Transbay Terminal, despite interference by the property owner of adjacent vacant lot at 80 Natoma, represented by HSRA Chair Petrillo. The time commitment for these two activities has made it impossible to further analyze the DPEIS/R. For that reason, TRANSDEF adopts the comments of the Trainriders' Association of California, the California Rail Foundation and the Regional Alliance for Transit by reference as if restated in full herein. TRANSDEF appreciates this opportunity to provide these comments on the DPEIS/R. We request the HSRA rise to the occasion of the groundswell of dissatisfaction with the DPEIS/R and undertake the inevitable recirculation of the document voluntarily.

Sincerely,

David Schonbrunn,
President

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Response to Comments of David Schonbrunn, President, Transportation Solutions Defense and Education Fund, August 31, 2004 (Letter O068)

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See standard response 2.18.1 and 6.3.1.

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August 31, 2004

Hon. Joseph E. Petrillo, Chairperson
California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA95814

RE: Draft Program Environmental Impact Report/Environmental Impact Statement ("DPEIR/S") for the proposed California High Speed Rail System.

Dear Mr. Petrillo:

This comment letter is submitted jointly by the Train Riders' Association of California ("TRAC") and the California Rail Foundation ("CRF", and, collectively, "TRAC/CRF") to comment on the above-referenced DPEIR/S. TRAC/CRF is emphatically in support of the creation of a California High Speed Rail System (hereinafter, "Project"). TRAC/CRF believes that the Project, if properly designed and implemented, would provide a fast, comfortable, efficient, and economical way to move passengers (and freight) between California's major urban areas. Such a system would supplement and complement the existing roadway and air transportation systems that currently provide most of California's inter-urban passenger transportation.

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Nevertheless, in spite of, and perhaps even because of TRAC/CRF's belief in the importance of the Project, TRAC/CRF has major misgivings about the current DPEIR/S. TRAC/CRF believes the DPEIR/S is deficient in providing decisionmakers and the public with important information on the Project, its potential impacts, and alternatives and mitigation measures that might reduce or eliminate Project impacts, while providing California with the optimal Project benefits. This letter documents the many major defects in the DPEIR/S. The defects, which will be laid out more fully below, are summarized briefly as follows:

- The DPEIR/S is deficient in its discussion of the purpose and need for the Project;
- The project description in the DPEIR/S is inaccurate and incomplete because it: 1) fails to include necessary components of the project, 2) fails to properly consider what, if any project phasing will be involved in project implementation, 3) incorrectly assumes that the other travel modes are only project alternatives, rather than separate projects that may be approved and move forward irrespective of whether the Project is approved and implemented;
- The DPEIR/S is deficient in its consideration of Project Alternatives. The DPEIR/S fails to consider or discuss several feasible alignment alternatives that could significantly reduce the Project's significant environmental impacts while better meeting the Project's purpose and need. Specifically, the DPEIR/S fails to provide an adequate analysis of: 1) an Altamont Pass alternative alignment for travel between the Central Valley and the S.F. Bay Area; and 2) a "West of SR 99" alternative

alignment for travel through the Central Valley. In addition, the DPEIR/S' analyses of those alignments it does consider are deficient and inaccurate in their discussion of their relative benefits and impacts. Further, the DPEIR/S fails to identify an environmentally superior alternative, including alignment considerations, as required by CEQA;

- The analysis of modal alternatives is flawed in that it is inaccurate and biased.
- The DPEIR/S is deficient in its analysis and consideration of the biological impacts of the Project and various Project alternatives, specifically including impacts on wetlands and on Federally and state listed species;
- The DPEIR/S is deficient in failing to include an adequate analysis of impacts, mitigation measures, and alternatives sufficient to allow the U.S. Army Corps of Engineers and the U.S. E.P.A. to determine if the Project qualifies as the Least Environmentally Damaging Project Alternative ("LEDPA") for purposes of issuance of the required Section 404 permits under the Clean Water Act;
- The DPEIR/S is deficient in its discussion of alternatives necessary to address the Project's potential impacts on public parklands under Section 4F;
- The DPEIR/S is deficient in its discussion and analysis of the Project's growth-inducing impacts;
- The DPEIR/S is deficient in its analysis of the Project's air quality impacts, including specifically indirect impacts related to the Project;
- The DPEIR/S is deficient in its analysis of energy impacts, again including specifically indirect impacts related to the Project;
- The DPEIR/S is deficient in its analysis of the Project's impacts on farmlands and open space, particularly in regard to the Project's growth inducing impacts;
- The DPEIR/S is deficient in its analysis of the Project's impacts on traffic, congestion, and parking;
- The DPEIR/S is deficient in its analysis of Project noise impacts, and specifically, of secondary impacts related to the mitigation of noise impacts;
- The DPEIR/S fails to acknowledge the Project's potentially significant environmental justice impacts;
- The DPEIR/S is deficient in its analysis of cumulative Project impacts;
- The mitigation measures proposed in the DPEIR/S are ineffective and insufficient to qualify as mitigation, even for a program level EIR/EIS, in that they fail to commit the Authority to any actual action or any standard to which future Authority actions could be held. Further, there is no substantial evidence to support the Authority's finding that many of the proposed mitigation measures are feasible or will result in reducing Project impacts to a less than significant level.
- The DPEIR/S is deficient in its consideration of the feasibility of various alignment alternatives in that its ridership and revenue calculations are

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inaccurate and incorrect, resulting in incorrect conclusions about the economic feasibility of various alternative alignments.

Time and space limitations preclude TRAC/CRF from laying out all of the DPEIR/S' flaws. Therefore, this letter's comments are restricted to those TRAC/CRF finds most blatant and/or most germane to TRAC/CRF's purposes. However, TRAC/CRF joins in and supports comments made by public agencies and other organizations pointing up the many other flaws in the DPEIR/S. In particular, TRAC/CRF supports and joins in the comment letters submitted by the California Dept. of Parks and Recreation, the Sierra Club, the California Native Plants Society, and the Planning and Conservation League. O069-1 cont

DETAILED COMMENTS

PROJECT PURPOSE AND NEED

The DPEIR/S is correct in noting the need to accommodate an expected increase in intercity passenger travel within California. In particular, the DPEIR/S correctly acknowledged the obvious fact that the most economically important travel market is between Los Angeles and San Francisco. However, the DPEIR/S is deficient in not properly acknowledging the legislature's mandate in establishing the CHSRA, and specifically the legislature's knowledge of and acceptance of the prior work done by the CHSRA's predecessor, the California Intercity High Speed Rail Commission ("Commission"). Nor does the DPEIR/S properly acknowledge the Commission's prior studies, which identified the optimal alignment for a San Francisco – Los Angeles high speed rail line as running from the Bay Area through the Altamont Pass to the Central Valley, and then following an alignment to the west of SR 99 through the Central Valley to the Los Angeles area. O069-2

The Commission's 1996 High Speed Rail Report and Action Plan, which plan is incorporated herein by this reference, outlined a preferred alternative for high speed rail routing that included Altamont Pass as the Bay Area – Central Valley route and a "West of 99" (several miles west of Highway 99) alignment as the preferred route through the Central Valley. The legislature was keenly aware of these recommendations when it authorized formation of the CHSRA and further work towards implementing San Francisco to Los Angeles high speed rail service. Nevertheless, the DPEIR/S has largely ignored these two key Commission recommendations.

Further, while the DPEIR/S identifies a need to provide fast, efficient, and reasonably priced transportation between urban areas in California, it fails to note that such transportation need not be provided solely by high speed rail. The DPEIR/S does note that passengers will be reaching the HSR stations by a variety of modes. However, the DPEIR/S assumes that the HSR stations need to be at the centers of the cities. As the comment letter from the California Department of Parks and Recreation suggests, given the significant impacts that are associated with placing HSR stations in the central cities, it makes sense to at least *consider* having the HSR stations at more peripheral but highly transit connected places. While there are obviously ridership benefits from a central city location in major metropolitan areas such as Los Angeles and San Francisco, the EIR/S needs to weigh such benefits against the impacts for central station locations, particularly for the smaller Central Valley cities.

PROJECT DESCRIPTION

The project description appears to cover several "subprojects", or phases, including the basic San Francisco – Los Angeles "main line" route as well as expansions of the system to reach Sacramento, Oakland, and San Diego. The documentation prepared by the Commission was explicit in identifying a first phase of implementing the basic main line route, and subsequent phases involving the various expansions. The DPEIR/S does not clearly indicate whether the proposed Project will continue to involve phasing, or whether it would be fully constructed as a single phase. This is crucial in determining whether the Project is even feasible[1]. For example, if the Project includes construction of all portions of the system, there do not appear to be sufficient financial resources to complete the system, which could result in a nonfunctional conglomerate of unconnected pieces. The EIR needs to clarify what, if any, phasing is proposed, what would be included in each phase, and the "triggers" for each phase. In addition, the EIR should provide a separate analysis for each different phase, including feasibility. This is particularly important because, with the limited financial resources available, a first phase may need to be self-sufficient for a number of years before subsequent phases could be funded and implemented. O069-3

In particular, the DPEIR/S fails to discuss whether a San Francisco – Los Angeles phase I project using the Altamont routing (as proposed in the Commission's 1996 plans) would be any more or less feasible *as a stand-alone project* than a similar project using the Pacheco Pass alignment. Instead, the feasibility of the Altamont alignment is only considered in the context of a fully implemented project including all system termini. Yet it is clear that there is currently not sufficient funding to build that project.

The EIR/S needs to evaluate the relative feasibility of Altamont versus Pacheco Pass (and versus Diablo Direct) as a phase one project per se. In particular, a phase one project using Altamont would eliminate the Oakland terminal and the Gilroy and Los Baños stations, but would include the entire Northern San Joaquin Valley ridership catchment area through Modesto and Stockton as well as the Livermore-Dublin-Pleasanton area. An Altamont-based phase one project could also include the San Jose terminal and Fremont station, either as a direct long-distance branch or as a separately-served spur. With or without the San Jose terminal, such a simplified phase one project would reduce the importance of the "train splitting" issue. (See below for further comments on train splitting.)

Further, the EIR/S needs to separately evaluate the feasibility of later phases in the context of different alternatives. For example, would a Sacramento extension be more or less feasible based on an Altamont alignment phase one project versus Pacheco or Diablo?

The project description is also flawed in failing to include the required expansion of local transit service to serve the proposed HSR stations. Such expansion of transit service, as well as any required improvements to local roadway networks is, if not an integral component of the Project, a reasonably foreseeable future project that the Project will make necessary.[2] It therefore needs to be considered and analyzed in the EIR for the Project. While it may be too early in some cases to identify specific station

[1] Nor is the CHSRA's business plan helpful in this regard. It indicates that the entire system will be constructed as one "phase", but then acknowledges that the more economically important segments may be constructed and put into service before other portions are built.

[2] Indeed, the currently proposed bond measure to fund the HSR system includes funding for local transit expansion. From that standpoint alone, the local transit expansion is an integral part of the project.

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sites and specific impacts of roadway/transit expansion to serve these sites[3], a generalized impact analysis, based on the number of expected passengers and expected modal split to access the station, can and should be included in the EIR/S. Secondary impacts related to the associated transit & roadway improvements, such as noise, traffic, and air quality impacts, should also be analyzed and discussed in the EIR/S.

O069-3 cont

Finally, the DPEIR/S takes the false premise that expansion of the roadway and airway systems is an independent alternative that will be chosen in an "either-or" process[4]. However, the reality is that the CHSRA is not in a position to implement anything except the HSR alternative, and decisions about implementing expansion of the roadway, conventional railway and/or airway systems will be made independently of implementation of the Project. Indeed, the most likely scenario is that, in addition to any implementation of a HSR project, some expansions of the roadway, conventional railway, and airway systems will also occur. The EIR/S should therefore include a cumulative expansion alternative that considers the effects and impacts of a combined expansion of roadway, conventional rail, and airway services within California in addition to implementation of HSR.

PROJECT ALTERNATIVES

Perhaps the most egregious failure of the DPEIR/S is in the area of project alternatives. An EIR (or EIS) is required to include a reasonable range of feasible alternatives that allows decisionmakers, and the public, to understand what other alternatives to the proposed project exist, particularly alternatives that might avoid one or more of the Project's identified significant impacts. "An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose served by the EIR, which is to enable the reviewing agency to make an informed decision and to make the decisionmaker's reasoning accessible to the public, thereby protecting informed self-government." (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733 [270 Cal.Rptr. 650].)

In this case, the DPEIR/S fails woefully in providing an adequate range of alternatives, particularly in regard to its function of allowing decisionmakers to determine an alignment for the Project. This deficiency must be corrected for the EIR/S to be considered adequate.

FAILURE TO INCLUDE AN ALTAMONT PASS ALTERNATIVE

The DPEIR/S provides two alternative routes for the Project to go from the Central Valley into the S.F. Bay area: the "Pacheco Pass" alternative and the "Diablo Direct" alternative. Both these alternatives result in a HSR system centered in San Jose. Not included, however, is the Altamont Pass alternative, an alternative running from Stockton across the Altamont Pass into the East Bay, then crossing the Bay to

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[3] The DPEIR/S does, however, identify specific sites for some stations, for example in San Francisco and Los Angeles. For these sites, local traffic and transit impacts should be considered in the current EIR/S.

[4] As will be discussed further below, under modal alternative, the modal alternative is also flawed for failing to include expansion of conventional; rail service as part of the modal alternative. Again, however, conventional rail, while more closely connected to the HSR system than other travel modes, is still not part of the CHSRA's responsibilities.

access San Francisco. This is in spite of this being identified by the Commission as the favored alternative for accessing the Bay Area.

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The DPEIR/S identifies three reasons for finding the Altamont alternative infeasible: lower ridership, operational difficulties related to a three-way split in train destinations, and difficulties in providing a Bay crossing. However, the DPEIR/S fails to provide substantial evidence to support using any of these as a basis for finding the Altamont alternative infeasible. Because the DPEIR/S' analysis of ridership and its assumptions on scheduling and operating trains are closely tied together, these two issues will be addressed together.

The DPEIR/S asserts that an Altamont alternative would suffer operational problems from having a three-way split in destinations. However, this analysis is flawed in several respects. First, such a split would be far less important in a "main line only" phase one project. As noted, such a phase one project would involve completing a direct HSR connection between San Francisco and Los Angeles. The phase one project would NOT include a direct high speed rail connection to Oakland.[5] While the Pacheco and Diablo Direct alternative would include the Gilroy and Los Baños stations in a "main line only" phase one, the fact that an Altamont alignment would not does not, per se, make it infeasible.[6] That would depend on the actual ridership and operational feasibility of such a project.

If the Altamont phase one project did not include an Oakland terminal, it would have much less of a problem from split destinations.[7] Given that such a phase one project is the only project for which full funding is currently being planned in the immediate future, an analysis of the phase one project, including an Altamont alternative, should have been included in the EIR.

Further, a phase one Altamont project connecting San Francisco to Los Angeles would have had substantially greater ridership than the alternative rejected in the DPEIR/S. The low ridership for the Altamont alternative in the DPEIR/S is largely because the DPEIR/S assumes only three trains per hour and no local connecting service. For the Pacheco and Diablo Direct alternatives, all three trains pass through San Jose, with two continuing to San Francisco and one to Oakland. For the Altamont alternative, the DPEIR/S assumes one train to Oakland, one to San Jose, and one to San Francisco. Given that San Francisco has far greater ridership potential than either San Jose or Oakland, the result is an artificially reduced ridership for the Altamont alternative.

In the phase one project without Oakland, however, trains would, at worst, only be partitioned between San Francisco and San Jose. While a phase one Pacheco or Diablo Direct routing would have all trains accessing San Jose, Gilroy, and Los Baños stations, all Altamont phase one trains would go through the upper San Joaquin Valley (Modesto, Stockton and Tracy) and the East Bay (Livermore, Dublin, Pleasanton, San Ramon, and Union City). If the Altamont phase one project included direct Los Angeles - San Jose service, trains could be partitioned between San Jose and San Francisco based on expected ridership (e.g., two trains per hour for San Francisco, one train per

[5] Oakland would still be connected to the system through BART at the Union City station.

[6] After all, the legislative mandate for the HSR system was that it connect San Francisco to Los Angeles. It did not require the inclusion of other termini in the initial system.

[7] Indeed, if San Jose was served by a spur line, rather than through direct long distance service, no splits would be needed. With cross-platform transfers, such spur service would still give San Jose passengers efficient access to long-distance HSR (including superior access to Sacramento, compared to the southern mountain crossing alternatives).